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Sexual Harassment is *rarely* about Sex, so what is *really* going on?

Lawsuits continue to mount in this subject and yet reviewing all the jury verdicts for California in 2009 reveal that the successful sexual harassment lawsuit almost never involve sex. Instead, the highest million dollar verdicts appear to fall into other protected class categories; either affinity (sexual orientation), disability or race. In reality, one can remove the word sex and insert almost any other protect class category, and there will be the more likely claim. The case that grabbed this author's attention in 2009 was the 1.2 million dollar verdict for a police officer who claimed he was denied a promotion because of the perception that he was gay. (Harvey v. City of Newport Beach)

In this economy, most employers, companies and entities are doing the best they can within limited budgets, resources and assistance. Gone are the days (or at least we hope) of the boss chasing the secretary around the desk trying to get a date in exchange for promises of employment, but we now see hostile work environment claims and third party quid pro quo claims increasing. And the claims that lose on merit seem to win on retaliation. By 2010, aren't we as a society finally getting the message about unlawful harassment, unlawful discrimination and retaliation? The verdicts suggest employers are missing important preventative steps.

There is a myth floating around that only large companies get sued for sexual harassment. In reality in 2009 the majority of lawsuits filed were against small

to mid sized companies, city/county entities and non-profits. Additionally many mistakenly believe only employees may sue. In reality, clients, customers and vendors have standing to sue, and even a sole proprietor can be a target.

What this means is that all business owners, non-profits, and companies regardless of size and amount of employees must take this subject super seriously. Here are some suggestions to help you stay out of legal trouble:

1. Make sure you have a written zero tolerance policy for unlawful harassment, sexual harassment, unlawful discrimination and retaliation.
2. Be sure to *follow* your policies and *enforce* them consistently and equally to all.
3. Make sure you have a written step-by-step process on how to neutrally handle all allegations and complaints. This includes complaints from customers, clients, vendors, third parties, independent contractors and employees.
4. Receive training and/or coaching on how to conduct your written process so that you enforce your process properly and legally.
5. Understand the correct documentation techniques and the legally required documentation retention processes/procedures. For example, never place the outcome of a sexual harassment investigation inside any employee's file. Keep separate files/documents for these types of situations.
6. Stay current in California Employment Law. Follow the legal trends in litigation so you can stay in front potential claims and lawsuits instead of behind.
7. Memorize California's protected classes and understand how to avoid unlawful harassment and unlawful discrimination. Take offered training courses in this subject each year to stay current.
8. Understand how Retaliation claims

can manifest and have affirmative steps in place to avoid them.

9. Retain preventative legal services such as the California Employment Law Training Center to help you self-audit any potential gaps or risks in your current business plan.
10. Update your employee handbooks, processes and procedures every six months to ensure that you are following the law. How many employees are aware of new rules regarding employees who take care of family members?

Sexual Harassment claims may have nothing to do with sex, but the number of lawsuits continue to rise with verdicts coming in over a million dollars. To survive in this economy, business owners must do more to prevent claims, lawsuits, fines and stress. Thus, address this subject early and be sure to review our above list of suggestions to keep your business profitable and positive. For more information and or assistance, call us at 925 827 4198 or visit our website (we offer free articles in this subject and other important employment law subjects.)

<http://www.CaliforniaEmploymentLawTrainingCenter.com> or

<http://www.BravermanSolutions.com>.

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